



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
TUESDAY, JANUARY 5, 2016**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald M. George State Office Complex, Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on January 5, 2016.

TUESDAY, JANUARY 5, 2016—9:00 A.M.

- (1) Ardon (Estuardo) v. City of Los Angeles, S223876
- (2) Kilby (Nykeya) v. CVS Pharmacy, Inc., and Companion Case, S215614
- (3) Baltazar (Maribel) v. Forever 21, Inc. et al., S208345

1:30 P.M.

- (4) deSaulles (Maureen) v. Community Hospital of the Monterey Peninsula, S219236
- (5) People v. Rangel, Jr., (Pedro) [Automatic Appeal], S076785
- (6) People v. Juarez (Gerardo) et al., and Consolidated Case, S219889

CANTIL-SAKAUYE
Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

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The following case summaries are issued to inform the public about cases that the California Supreme Court has scheduled for oral argument and of their general subject matter. In most instances, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, JANUARY 5, 2016—9:00 A.M.

(1) *Ardon (Esturado) v. City of Los Angeles*, S223876

#15-17 Ardon (Esturado) v. City of Los Angeles, S223876. (B252476; 232 Cal.App.4th 175; Superior Court of Los Angeles County; BC363959.) Petition for review after the Court of Appeal affirmed an order in a civil action. This case presents the following issues: (1) Does inadvertent disclosure of attorney work product and privileged documents in response to a Public Records Act request waive those privileges and protections? (2) Should the attorney who received the documents be disqualified because she examined them and refused to return them?

(2) *Kilby v. CVS Pharmacy, Inc./Henderson v. JPMorgan Chase Bank NA*, S215614

#14-29 Kilby v. CVS Pharmacy, Inc./Henderson v. JPMorgan Chase Bank NA, S215614. (9th Cir. Nos. 12-56130, 13-56095; 739 F.3d 1192, Southern District of California, 3:09-cv-02051–MMA-KSC; Central District of California, 2:11-cv-03428-PSG-PLA.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in consolidated appeals pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: For purposes of IWC Wage Order 4-2001 § 14(A) and IWC Wage Order 7-2001 § 14(A), “(1) Does the phrase ‘nature of the work’ refer to an individual task or duty that an employee performs during the course of his or her workday, or should courts construe ‘nature of the

work’ holistically and evaluate the entire range of an employee’s duties? If the courts should construe ‘nature of the work’ holistically, should the courts consider the entire range of an employee’s duties if more than half of an employee’s time is spent performing tasks that reasonably allow the use of a seat? (2) When determining whether the nature of the work ‘reasonably permits’ the use of a seat, should courts consider any or all of the following: the employer’s business judgment as to whether the employee should stand, the physical layout of the workplace, or the physical characteristics of the employee? (3) If an employer has not provided any seat, does a plaintiff need to prove what would constitute ‘suitable seats’ to show the employer has violated Section 14(A)?”

(3) *Baltazer (Maribel) v. Forever 21, Inc. et al., S208345*

#13-31 Baltazer (Maribel) v. Forever 21, Inc. et al., S208345. (B237173; 212 Cal.App.4th 221; Superior Court of Los Angeles County; VC059254.) Petition for review after the Court of Appeal reversed an order denying a petition to compel arbitration in a civil action. This case presents the following issue: Is an employment arbitration agreement unconscionable for lack of mutuality if it contains a clause providing that either party may seek provisional injunctive relief in the courts and the employer is more likely to seek such relief?

1:30 P.M.

(4) *deSaulles (Maureen) v. Community Hospital of the Monterey Peninsula, S219236*

#14-82 deSaulles (Maureen) v. Community Hospital of the Monterey Peninsula, S219236. (H038184; 225 Cal.App.4th 1427; Superior Court of Monterey County; M85528.) Petition for review after the Court of Appeal reversed an order awarding costs in a civil action. This case presents the following issue: When plaintiff dismissed her action in exchange for the defendant’s payment of a monetary settlement, was she the prevailing party for purposes of an award of costs under Code of Civil Procedure section 1032, subdivision (a)(4), because she was “the party with a net monetary recovery,” or was defendant the prevailing party because it was “a defendant in whose favor a dismissal is entered”?

(5) ***People v. Rangel, Jr., (Pedro), S076785*** [Automatic Appeal)

This matter is an automatic appeal from a judgment of death.

(6) ***People v. Juarez (Gerardo) et al., and Consolidated Case, S219889***

#14-103 People v. Juarez (Gerardo) et al., and Consolidated Case, S219889. (G049037, G049038; 227 Cal.App.4th 1138; Superior Court of Orange County; 12CF3528.)

Petition for review after the Court of Appeal reversed an order dismissing a criminal prosecution. This case presents the following issue: Does Penal Code section 1387 require dismissal of a criminal complaint if two prior complaints have been dismissed but the third complaint charges that the identical criminal act violates a section of the Penal Code different from that named in the two previous complaints?